



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date:	02/20/14	Bill No:	Assembly Bill 2031
Tax Program:	Lumber Product Assessment	Author:	Dahle
Sponsor:	BOE	Code Sections:	PRC 4629.5
Related Bills:		Effective Date:	01/01/15

BILL SUMMARY

This Board of Equalization (BOE) sponsored bill:

- Allows retailers to claim a bad debt deduction for previously reported Lumber Product Assessment (LPA) amounts if the related account becomes worthless; and
- Establishes a threshold of annual sales of \$25,000 in qualifying lumber products, under which a retailer is not required to collect and report the LPA.

ANALYSIS

CURRENT LAW

Beginning in January 1, 2013, the Legislature enacted Assembly Bill 1492,¹ imposing a 1% assessment on a person who purchases lumber products and engineered wood products to be collected by the retailer at the time of sale.

For the privilege of selling tangible personal property at retail, existing Sales and Use Tax Law² imposes sales tax upon a retailer. Retailers are responsible for reporting and paying the retail sales tax. RTC Section 6055 allows retailers to claim a bad debt deduction for previously reported taxable sales if they do not receive total compensation for the retail sale transaction insofar as the measure of the tax is represented by accounts that have been found worthless and charged off for income tax purposes. If retailers only collect a portion of the reported taxable amount, they also may claim a partial deduction for that portion found to be uncollectible.

Currently, the statute:

- Does not provide any relief for retailers related to the LPA if their customers' accounts become uncollectible. In effect, retailers must pay the LPA to the BOE whether or not they collected the LPA from their customers, on whom the LPA is actually imposed.
- Does not provide any type of exclusion for otherwise qualified businesses that have few to no sales of wood products subject to the LPA. These businesses must file zero or small dollar returns.

¹ Article 9.5 (commencing with Section 4629) Chapter 8 of Part 2 of Division 4 of the Public Resources Code (PRC) [Assembly Bill 1492, Chapter 289, Statutes 2012]

² Article 1 (commencing with Section 6051) of Part 1 of Division 2 of the Revenue and Taxation Code (RTC)

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position

PROPOSED LAW

This bill amends PRC Section 4629.5 to establish a procedure that would relieve a retailer from the liability to collect the assessment on the purchase of lumber and wood products insofar as the measure of the assessment is represented by a retail account that has been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted account principles.

This bill, for purposes of all of the above provisions, defines “retailer” as one who has sales of qualified lumber products and engineered wood products of \$25,000 or more during the previous calendar year.

BACKGROUND

Bad Debt Deduction: While the retailers who sell products subject to the LPA are required to collect the assessment on the products sold for storage, use, or other consumption in California, the assessment is actually imposed upon a person who purchases a lumber product or an engineered wood product. This method of collection places the ultimate liability for collection of the assessment with the retailer, as the retailer is required to charge and collect the assessment from the purchaser pursuant to both subdivisions (a) and (c) of PRC Section 4629.5. Accordingly, if a person purchasing a lumber product issues a bad check or does not pay the retailer, the retailer still must report those sales as subject to the LPA and remit it to the BOE. A bad debt deduction would be consistent with other BOE-administered programs and relieve retailers of liability that more rightly belongs to customers who do not pay their bills. .

Small Seller Threshold: All retailers that may make sales of lumber products or engineered wood products are required to register with the BOE and report the LPA on those sales, regardless the amount of sales. During calendar year 2013, approximately 29,600 businesses accounts, with approximately 39,600 retail locations were registered to collect the LPA. To date, over 28,000 of these retail locations have been closed by the BOE because they were filing zero returns and/or were not making sales of wood products subject to the LPA.

Of the remaining registered accounts, approximately 1,177 retail locations reported LPA sales of less than \$25,000 for calendar year 2013.

COMMENTS

- 1. Sponsor and Purpose.** The BOE is sponsoring this bill to provide relief to retailers when they are unable to collect the LPA from purchasers, which is consistent with other tax and fee programs. This bill is also intended to ease the burden for qualifying, small sellers of wood products by eliminating the expense of collecting and reporting the LPA.
- 2. Bad debt provisions are consistent with other programs.** The proposed credit or refund to retailers is similar to provisions in the Sales and Use Tax Law, Use Fuel Tax Law, and Energy Resources Surcharge Law administered by the BOE.
- 3. Product Tracking.** If the small seller threshold provision is enacted, retailers must still continue to track their sales of qualifying wood products and engineered wood products to determine if they qualify under the threshold.
- 4. Zero Returns.** The BOE intends to de-register accounts that reported zero sales of lumber products subject to the LPA during calendar year 2013.

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COST ESTIMATE

The BOE has not completed a detailed cost analysis of this bill. However, any costs savings realized by having fewer retailers is likely to be offset by additional costs associated with administering a small seller threshold and the bad debt deduction provisions.

REVENUE ESTIMATE

The BOE has not completed a detailed revenue analysis of this proposal. However, a BOE revenue loss of approximately \$50,000 could be expected due to the small seller allows and the bad debt allowance. The LPA is assessed on the purchaser, with a requirement for the retailer to collect and report the assessment to the BOE. Accordingly, the purchaser would still be required to report the LPA to the BOE even if the retailer is not required to collect and report the amounts.

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